

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

FREDERICK WAYNE SMITH,

Plaintiff,

v.

KATHLEEN ALLISON, et al.,

Defendants.

Case No. 1:22-cv-01580-JLT-SAB (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS
CERTAIN CLAIMS AND DEFENDANTS**

(Doc. 14)

Plaintiff Frederick Wayne Smith is proceeding pro se in this civil rights action filed pursuant to 42 U.S.C. § 1983. The magistrate judge reviewed the allegations of Plaintiff's complaint pursuant to 28 U.S.C. § 1915A(a) and found Plaintiff stated cognizable claims against Defendant Rodriguez for retaliation, deliberate indifference to safety, and denial of access to the courts. (Doc. 14.) However, the magistrate judge found Plaintiff's remaining claims failed. Therefore, the magistrate judge granted Plaintiff the option to file an amended complaint or notify the Court that he was willing to proceed only on the cognizable claims. (Doc. 14.)

On March 6, 2023, Plaintiff filed a notice indicating he accepted the Court's findings concerning the cognizable claims. (Doc. 13 at 1.) Accordingly, the magistrate judge issued Findings and Recommendations, recommending the action proceed only against Defendant Rodriguez for retaliation, deliberate indifference to safety, and denial of access to the courts. (Doc. 14 at 1-2.) The Findings and Recommendations were served on Plaintiff on March 8,

2023, and contained a notice that any objections were due within 14 days of the date of service. (*Id.* at 2.) Plaintiff was also informed the “[f]ailure to file objections within the specified time may result in waiver of rights on appeal.” (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014); *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991).) Plaintiff did not file objections, and the time to do so has expired.

According to 28 U.S.C. § 636(b)(1)(C), this Court conducted a *de novo* review of this case. Having carefully reviewed the entire matter, the Court concludes the Findings and Recommendations to be supported by the record and proper analysis. Thus, the Court

ORDERS:

1. The Findings and Recommendations dated March 8, 2023 (Doc. 14) are **ADOPTED**.
2. This action shall proceed only on Plaintiff’s claims against Defendant Rodriguez for retaliation, deliberate indifference to safety, and denial of access to the courts.
3. All other claims and Defendants are **DISMISSED** without leave to amend.
4. This action is referred to the magistrate judge for further proceedings.

IT IS SO ORDERED.

Dated: **April 3, 2023**


UNITED STATES DISTRICT JUDGE